

## **REMARKS**

Receipt of the Office Action mailed June 13, 2002 is acknowledged. This paper is intended to be a full and complete response to that communication. Claims 1-24 are currently pending in the application, all of which stand rejected under various sections of 35 U.S.C.

### **I. Objections to the claims**

The applicants address this objection by submitting enclosed figure 10 as requested by the Examiner. The drawing as submitted is not new matter and is fully supported on page 16-17 of the specification. Applicants respectfully request reconsideration and removal of the objection to the drawings.

### **II. Rejections Under 35 U.S.C. § 112**

Claims 11, 16, 17 and 21-23 stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter that was not described in the specification in such a way as to enable one skilled in the art to make or use the invention.

The specification has been amended to correct the range from 0.9 to 1.3 to 0.09 to 1.3. No new matter is introduced as the amendment corrects an obvious error. The

decimal point was inadvertently shifted and the error was not discovered. The example set forth in the specification is outside of the disclosed range and makes clear that the shifting of the decimal point was nothing more than an inadvertant error. (See *In re Oda*, 443 F.2d 1200, 170 USPQ 268, 272 (C.C.P.A. 1971). The amendment to the specification renders the rejection moot. Reconsideration and removal of the rejection's of claims 11, 16, 17 and 21-23 under 35 U.S.C. § 112, first paragraph, are respectfully requested.

### **III. Rejections Under 35 U.S.C. § 103**

Claims 1-10, 12-15, 17-20 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cadorniga et al. (USPN 5,415,937) in view of Shaw (USPN 4,877,252) and OFFICIAL NOTICE. Applicants respectfully request reconsideration in light of the following amendments and arguments.

Although Cardorniga et al discloses a golf ball having a dodecahedron dimple pattern on the surface of a golf ball and Shaw discloses a dodecahedron dimple pattern, it's the ***overlapping*** of dimples that is taught by Shaw to enhance flight of the ball and not the arrangement of dimples.

The Shaw '252 patent discloses at column 1, line 15-18 that "[w]e have found that the aforementioned playing characteristics can be considerably enhanced by so arranging the dimples on the surface of the ball that at least some dimples touch or overlap." Shaw further discloses at column 2, line 39-44, "FIG. 3 shows a golf ball (indicated generally at 30) having a repeating dimple pattern indicated by chain dotted lines 31, 32, 33, 34 and 35 represent five of the six 'great circles' of the ball, the sixth 'great circle' not being visible in the view shown in FIG. 3)." The cited art fails to show or suggest, either singly or in combination, a golf ball having either ten great circle paths or at least 360 dimples. The specification states that the instant invention is directed to a golf ball having a combination of excellent feel with distance. These characteristics cannot be achieved without careful tailoring the golf balls combined features. The cited art fails to teach the instant inventions combination and thus is allowable as now amended.

Applicants respectfully request reconsideration and removal of the Examiner's OFFICIAL NOTICE rejection of the claims that relies upon the applicants' specification and improper hindsight instead of the teachings of the combined references.

While it is correct that the arrangement of dimples along a great circle path may influence the axis of spin, the random addition of more great circle paths does not lead to a greater influence on the axis of spin and the type of play for which the ball is suited.

The statement that the arrangement of dimples along a great circle path would lead to the logical conclusion for one to add more great circle paths is incorrect because it does not take into account changes to the dimple coverage of the ball that result from adding additional great circle paths. Additional great circle paths can lead to the diminished performance of a golf ball because of additional drag along with the degradation other important flight characteristics.

The specification addresses the optimization of playability and not solely that of flight performance. The specification and cited art both disclose that the number of dimples has an effect on golf ball performance. Dimple number, however, must be taken into consideration with the dimple pattern and dimple placement on a golf ball. Thus, stating that the number of dimples is a design choice is incorrect and overly simplistic since other factors including dimple placement and pattern interact with the

number of dimples present in the pattern to impart optimized playability characteristics.

The OFFICIAL NOTICE is incorrect because it negates numerous factors that have a large impact on the playability of the ball and fails to provide the required teachings that are a critical function to the performance of the ball. Without references that teach the claimed combination, an improper reliance on hindsight occurs leading to an incorrect assessment involving the finding of obviousness.

The Federal Circuit has held that:

*"[t]he test for obviousness is not whether the features of one reference may be bodily incorporated into another reference. . . . Rather, we look to see whether combined teachings render the claimed subject matter obvious." See In re Wood, 599 F.2d 1032, 202 USPQ 171, 174 (C.C.P.A. 1979) (emphasis added) (citing In re Bozek, 416 F.2d 1385, 1390, 163 USPQ 545, 549-50 (C.C.P.A. 1969))*

The claims have been amended to more particularly point out what the applicants consider to be their invention. In light of the amendment, the rejections are respectfully requested to be withdrawn and the application allowed to issue.

Claims 11 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cadorniga et al. (USPN 5,415,937) in view of Shaw (USPN 4,877,252) and OFFICIAL NOTICE and further in view of Cadorniga (USPN 5,470,076). Applicants respectfully request reconsideration and allowance of the claims in light of the above-mentioned arguments and claim amendments. The cited references fail to produce the instant claimed invention either singly or in combination and thus allowance is warranted.

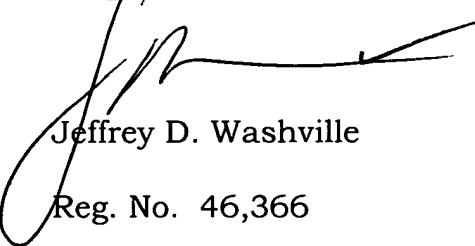
#### **IV. DOUBLE PATENTING REJECTION**

Claims 1-11, 15, 18, 19, 20 and 24 stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-24 of U.S. Patent application no. 09/884,612. The claims of the '612 application include limitations to completely different blend of ionomers, which produces a cover having different properties. The significant difference in polymer chemistry between the applications should prevent the finding of double patenting obviousness. For this reason, applicants respectfully request withdrawal of the rejection.

V Conclusion

Based on the foregoing discussion, it is respectfully requested that all rejections be withdrawn and the application be passed to issue.

Respectfully submitted,



Jeffrey D. Washville

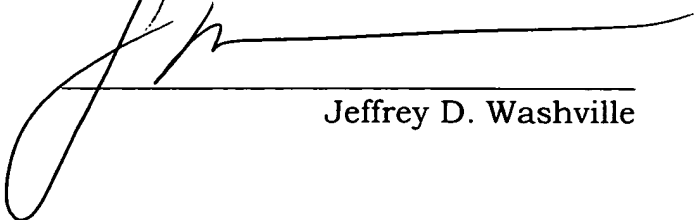
Reg. No. 46,366

Dated: 14 OCT 02

440 Commercial Street  
Boston, MA 02109  
Tel.: (617) 227-0700  
FAX: (617) 723-4609

Certificate of Mailing

The undersigned hereby certifies that this paper along with any paper or document referred to therein as being attached or enclosed, is being deposited with the United States Postal Service via First Class Mail, Postage Prepaid, service under 37 C.F.R. §1.8, in an envelope addressed to the Assistant Commissioner for Patents, Box no fee amendment, Washington D.C. 20231- This 14<sup>th</sup> day of October 2002.



Jeffrey D. Washville

**MARKED-UP VERSION SHOWING CHANGES MADE**

**IN THE SPECIFICATION**

At page 10, line 8 insert:

Figure 10 is a display of the dual radius dimple.

Page 16, line 20 - page 17, line 5:

As shown in Figure 10, a single radius dimple is defined as having one radius that defines the profile of the dimple. A dual radius dimple has two radii that define the dimple profile. For dimples 58, 59 and 60, R1 is 0.7874" which may range from 0.5 to 0.9 inches and R2 is 0.1181", which may range from [0.9] 0.09 to 1.3 inches. A major radius (Radius 1) describes the bottom of the dimple (i.e. it governs the shape of the dimple toward the bottom of the dimple). A minor radius (Radius 2) governs the shape of the dimple about its circumference. As noted below, in some embodiments, these radii may be equal. R1 defines the bottom portion of the dimple, R2 defines the "side" portion of the dimple.



**IN THE CLAIMS**

1. (Amended) A golf ball comprising:

a core;

a cover disposed over said core, wherein said [core]  
cover is a blend of polymers comprising:

a first polymer having a melt index of about 2 to  
10 grams/10 min., a flexural modulus of 60,000 to  
80,000 PSI, a Shore D hardness of about 60 to 70; and,  
a plurality of dimples arranged to coincide with a  
modified dodecahedron pattern comprising twelve pentagons  
subdivided by ten great circles free of dimples that form  
sixty triangles on said cover.

18. (Amended) A golf ball comprising:

a core;

a cover blend comprising:

a first polymer comprising an  
ethylene/methacrylic acid copolymer having 19% by  
weight of acid, a melt index of about .2 to 10  
grams/10 min., a flexural modulus of 60,000 to 80,000  
PSI, a Shore D hardness of about 60 to 70; and,

a second polymer comprising an  
ethylene/methacrylic acid/n-butyl acrylate copolymer  
having a melt index of about .2 to 2 grams/10 minutes,  
a flexural modulus of 2,000 to 8,000 PSI;  
a plurality of dimples on cover according to a  
modified dodecahedron pattern;

a great circle path free of dimples, wherein said  
cover has ten great circle paths;

a plurality of pentagons subdivide said dodecahedron  
pattern wherein said pentagons are subdivided into a  
smaller pentagon located within each of said plurality of  
pentagons;

a plurality of triangles, wherein said triangles  
subdivide said pentagons;

a plurality of rows, wherein said rows subdivide said  
triangles.